# UNTIED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 20

TEAMSTERS LOCAL 624,	)	CASE NO.: 20-CA-35363
INTERNATIONAL BROTHERHOOD	)	
OF TEAMSTERS, CHANGE TO WIN	)	
COALITION,	)	
	)	
Charging Party,	)	
	)	
vs.	)	
	)	
NEILMED PRODUCTS, INC.,	)	
	)	
Respondent.	)	
/	/	

## EXCEPTIONS OF RESPONDING PARTY NEILMED PRODUCTS, INC.

Pursuant to Section 102.46, Respondent, Neilmed Products, Inc., files the following exceptions to the Administrative Law Judge's Decision:

Exception 1: Charged party excepts to the ALJ's finding that the issue of whether Mr. Cisneros' presence created ill will and made good-faith bargaining impossible subsumes the issue of the Employer's duty under California State law to provide a safe work place for their employees, and consequently excepts to her "Refusal to Bargain" analysis rather than a "Refusal of Access" analysis. (Decision page 9)

**Exception 2:** Charged party excepts to the ALJ's finding that because NeilMed continued to negotiate with Mr. Cisneros after the picket line incident his presence did not create ill will and make good faith bargaining impossible. (Decision page 9:35-45)

**Exception 3:** Charged party excepts to the ALJ's finding that because the Union and NeilMed signed the Collective Bargaining Agreement after the picket line incident Mr. Cisneros' presence

did not create ill will and make good faith bargaining impossible. (Decision page 9:35-45)

**Exception 4**: Charged party excepts to the ALJ's failure to find that Mr. Cisneros violated the sequestration order when he took photographs of Respondent's witnesses while they were waiting to testify at the hearing. (Decision page 7:25)

Exception 5: Charged party excepts to the ALJ's erroneous finding that no further mention of Mr. Cisneros' taking photographs of Respondent's witnesses was made throughout the remainder of the hearing nor was any witness asked about the issue. (Decision page 7:15-39)

**Exception 6:** Charged party excepts to the ALJ's erroneous finding that the issue of Mr. Cisneros taking photographs was not litigated. (Decision page 7:37)

Exception 7: The ALJ erred in failing to credit the testimony of the female employees regarding their fear for their safety. (Decision page 3:26 - 4:07)

**Exception 8:** Charged party excepts to the ALJ's finding that Maria Chavez's testimony that Mr. Cisneros told her "If I wasn't with them, something bad would happen to me" was too long a sentence to hear while passing pickets. (Decision page 3:38-41)

**Exception 9**: Charged party excepts to the ALJ's complete failure to consider the testimony of the female employees who are fearful of Mr. Cisneros. (Decision page 3:26 - 4:7)

Exception 10: Charged party excepts to the ALJ's complete failure to consider the evidence or address the issue that Mr. Cisneros possesses no skills or knowledge which justifies the Union's superseding need for him to enter the premises in order to fulfill his duties as business agent. (Decision page 9,10,11)

Exception 11: Charged party excepts to the ALJ's refusal to consider that the appointment of Elmer Cisneros as business agent was bad faith on the part of the union. (Decision page 9,10,11)

# Respectfully Submitted,

Date: August 29, 2011

DIANE AQUI

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#### PROOF OF SERVICE

I declare as follows:

I am over the age of 18 years and not a party to the within action. My business address is 1120 College Avenue, Santa Rosa, CA 95404-4020.

I am readily familiar with the business practice of this office for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service on the same day in the ordinary course of business.

On the date below, I served the attached documents described as:

### RESPONDENT'S EXCEPTIONS

on the interested parties in said cause, as follows:

_	By Regular U.S. Mail. The documents were placed for collection and mailing, following ordinary business practice for deposit in the United States Postal Service, in a sealed envelope, with the postage thereon fully prepaid, addressed as stated on the attached service list.
	By Facsimile or Telecopier, with original to follow by U.S. Mail, Express Mail, or other overnight courier as applicable, to all parties as stated on the attached service list.
<del></del>	By Personal Service. I caused each such envelope to be delivered by hand to the addressee(s) as stated on the attached service list.

Ralph Miranda Teamsters Local 624 1371 Neotomas Avenue Santa Rosa, CA 95405 Teague Paterson Beeson, Tayer & Bodine 1404 Franklin Street, Fifth Floor Oakland, CA 94612-3208

Carmen Leon National Labor Relations Board, Region 20 901 Market Street, Suite 400 San Francisco, CA 94103

I declare under penalty of perjur	y under the laws of the State of California that the
foregoing is true and correct.  Executed on 8-29-11	
Executed on 8-29-11	at Santa Rosa, California.
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	Diane Aqui